

City Council Introduction: **Monday**, January 7, 2002
Public Hearing: **Monday**, January 14, 2002, at **1:30 p.m.**

Bill No. 02R-2

FACTSHEET

TITLE: **SPECIAL PERMIT NO. 1237A**, requested by Mark Hunzeker on behalf of U.S. Bank, for a 40 sq. ft. ground sign in the front yard, associated with a special permit for a parking lot in a residential district, on property generally located on the northeast corner of South 27th Street and Woods Boulevard.

STAFF RECOMMENDATION: Conditional Approval.

ASSOCIATED REQUESTS: Change of Zone No. 3347 (02-3) and Change of Zone No. 3340 (02-7)

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 12/12/01
Administrative Action: 12/12/01

RECOMMENDATION: **Denial** (5-3: Newman, Krieser, Taylor, Carlson, and Hunter voting 'yes'; Steward, Duvall and Schwinn voting 'no'; Bills absent).

FINDINGS OF FACT:

1. The three associated applications (Change of Zone No. 3340, Change of Zone No. 3347 and Special Permit No. 1237A) had separate public hearings before the Planning Commission. However, the applicant has requested that all three applications be placed on the same City Council agenda.
2. The staff recommendation to approve this special permit, with conditions (including the approval of the associated text amendment, Change of Zone No. 3347), is based upon the "Analysis" as set forth on p.4, concluding that the application is generally in conformance with the Comprehensive Plan and meets the provisions of the special permit if the associated text amendment, Change of Zone No. 3347, is approved by the City Council.
3. The applicant's testimony is found on p.6, and the applicant's response to the testimony in opposition is found on p.7.
4. Testimony in opposition is found on p.6-7, and the record consists of two letters in opposition (p.16-17), including the Board of Directors of the Country Club Neighborhood Association.
5. On December 12, 2001, the Planning Commission disagreed with the staff recommendation and voted 5-3 to recommend **denial** (Newman, Krieser, Taylor, Carlson and Hunter voting 'yes'; Steward, Duvall and Schwinn voting 'no'; Bills absent). See Minutes p.7-8.
6. The Planning Commission held public hearing and voted to recommend denial of the associated text amendment, Change of Zone No. 3347, prior to hearing this application. Therefore, it may also be helpful to review the Minutes of the public hearing on Change of Zone No. 3347 (02-3).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: December 31, 2001

REVIEWED BY: _____

DATE: December 31, 2001

REFERENCE NUMBER: FS\CC\2002\FSSP1237A

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S. Special Permit #1237A:

DATE: September 28, 2001

PROPOSAL: Request to allow a 40 square foot ground sign in the front yard, associated with a Special Permit for a parking lot.

WAIVER REQUEST: None, location in the front yard is requested. However, only City Council can permit such sign size and location in a front yard.

LAND AREA: 34,125 square feet, more or less

CONCLUSION: This application is generally in conformance with the Comprehensive Plan and meets the provisions of the special permit if Change of Zone #3347 is approved by the Council.

RECOMMENDATION:

Conditional Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 36, 37 and 38, Block 1, Bishop Heights located in the SW1/4 of Section 6, Township 9 North, Range 7 East, Lancaster County, Nebraska.

LOCATION: Generally located on the northeast corner of South 27th Street and Woods Blvd.

APPLICANT: U S Bank

OWNER: U S Bank

CONTACT: Mark A Hunzeker
1045 Lincoln Mall
Lincoln, NE 68508
(402) 476-7621

EXISTING ZONING: R-1 Residential

EXISTING LAND USE: Parking lot and landscaping

SURROUNDING LAND USE AND ZONING:

North:	R-1 Residential	Parking lot and open space
South:	R-1 Residential	Open space, commercial south of Woods Blvd.
East:	B-1 Local Business	Commercial
West:	R-1 Residential	Single family residential

ASSOCIATED APPLICATIONS: Change of Zone #3347, text amendment

HISTORY:

Change of Zone # 3340. from, R -1 Residential to B-1 Local Business, was heard by the Planning Commission on **October 3rd, 2001**. Planning Commission recommended Denial on **October 31, 2001**. This is currently on hold at the City Council.

Change of Zone #2346 from R-1 to B-1 to allow the installation of an automatic teller machine was approved by the City Council **August 24, 1987**.

On **August 31, 1987** City Council approved Special Permit #1237 to allow construction of a parking lot for 17 parking stalls. The area of the special permit extends to S. 27th Street. A landscape plan in excess of minimum design standards to screen the parking lot from 27th Street was required.

Change of Zone 2227 from R-1 to B-1 was approved by City Council in **March 1986**. This change of zone was to allow the expansion of bank offices.

In **1979** the zoning was changed to R-1, Residential and B-1, Local Business.

Prior to **1979** the zoning was A-1, Single Family Dwelling District and G, Local Business District.

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan reflects the existing zoning and designates this site as Residential.

The Comprehensive Plan identifies goals for Neighborhood Centers. One goal is to “maintain and encourage retail establishments and businesses that are convenient to, and serve, neighborhood residents, yet are compatible with but not intrusive upon residential neighborhoods.”

UTILITIES: Available

TOPOGRAPHY: This site has a slight rise to the east of 27th Street.

TRAFFIC ANALYSIS: S. 27th Street is a Principle Arterial.

PUBLIC SERVICE: Full city services

REGIONAL ISSUES: None

ENVIRONMENTAL CONCERNS: Visual impact

AESTHETIC CONSIDERATIONS: Visual impact

ALTERNATIVE USES: A ground or pole sign in the B-1 zoned area of the premise.

ANALYSIS:

1. This request requires the approval of Change of Zone #3347 to allow the larger sign in the front yard setback.
2. This request is to amend Special Permit # 1237, a parking lot in the residential district, to allow a 35.6 square foot ground sign to be located 15' from the 27th Street property line and 28' from the Woods Boulevard property line. The required setback is 30'.
3. When this development was approved, a 100' buffer strip of residential zoning was provided. Newer commercial districts such as the B-2 and B-5 have a 50' landscaped front yard requirement.
4. The B-1 district allows pole and ground signs, per frontage. The B-2 does allow council to adjust the signs and allow a sign in the front yard.
5. During the discussion on the change of zone to B-1 (#3340), the applicants attorney indicated they would remove the existing pole sign and limit the premise to this one sign in lieu of other pole or ground signs. This permit reflects that compromise trade-off.

CONDITIONS:

Site Specific:

1. This approval permits one 40 square foot, 7' high, ground sign, in the front yard, as shown on the approved site plan. This is in lieu of any other pole or ground sign on the premise.

General:

2. Before receiving building permits:
 - 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.
 - 2.1.1 Revise the site plan to include all of Special Permit # 1237 as amended by this approval.
 - 2.1.2 5 copies of the approved site plan.
 - 2.2 The City Council approves Change of Zone #3347.
 - 2.3 The construction plans comply with the approved plans.

STANDARD CONDITIONS:

3. The following conditions are applicable to all requests:

- 3.1 Before constructing this sign all development and construction is to comply with the approved plans.
- 3.2 All privately-owned improvements, including landscaping are to be permanently maintained by the owner.
- 3.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
- 3.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 3.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.
- 3.6 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by

Mike DeKalb. AICP
Planner

SPECIAL PERMIT NO. 1237A

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 12, 2001

Members present: Steward, Newman, Krieser, Taylor, Carlson, Hunter, Duvall and Schwinn; Bills absent.

Staff recommendation: Conditional approval. This application requires approval of Change of Zone No. 3347.

Proponents

1. **Mark Hunzeker** appeared on behalf of **U.S. Bank**, the applicant. Hunzeker suggested that in light of the Commission's action to deny the proposed text change (Change of Zone No. 3347), he would like to put on the record and point out one more time that this effort is to reduce the total signage on this site and would have resulted in a restriction on the total signage available to U.S. Bank at this site, including but not limited to the ability to have an up to 150' sq. ft. pole sign, 35' tall, and a wall sign of up to 35% of the total wall area of the building. In Hunzeker's opinion, It is really unfortunate that we are unable to reach some way of putting a sign on this site that is visible from the street for this business because if you want to really think about horrible possibilities, the horrible possibility is that the bank finds a new location, which is more visible with easier access, and this site becoming a different kind of business that utilizes all of the available signage. In denial of the previous application (Change of Zone No. 3347) and this special permit, the Commission has at least opened up the possibility of something at least as bad or worse than the worse things mentioned by the opposition.

Hunzeker further pointed out that the applicant asked the staff for advice on how to proceed. There have been two potential solutions recommended by staff which have been rejected by the Planning Commission.

Opposition

1. **Linda Wibbels** spoke as a citizen and neighbor in opposition. She does not disagree on signage and the taste of signs. She much prefers monuments signs; however, that is not the case here. She really feels quite badly that the neighborhood was never approached directly by US Bank. She feels very badly that some of the trees were used to justify this request. She also feels badly that she might have to be fearful that another business may go in there. She does business with US Bank, but this special permit is just not appropriate. The arguments used for this have been visibility. She complimented City Parks for keeping that canopy of trees along the parkway really quite high. She can see the pole sign and the sign on their ATM. She was told that US Bank happened to have an extra ground sign and this was a good use for it. As far as using the visibility argument, then will someone please explain why the banner has been located illegally out in the right-of-way for two years? If that banner has not brought in more business, then why are we to assume that a ground sign will do so?

2. Bob Ripley, who lives in the Country Club Neighborhood, testified in opposition. He believes that the trees that the bank has suggested might be removed are on city property. However, if the trees are on the bank's property, it is clearly the bank's choice to remove the trees, if necessary. Ripley stated that he would be the first person to applaud that laws, codes, and ordinances are clearly meant to be changed, but by the same token the implication was that this change needs to be made because other changes have been made. The issue is the value of the change. Our neighborhood happens to be a group that is organized. He is equally concerned with this special permit and the text amendment for those neighbors that are not organized and not represented on this issue.

Response by the Applicant

Hunzeker advised that the applicant did contact the Country Club Neighborhood Association. Hunzeker was told over the phone by Jim Pattavina that, in his opinion, there was no problem with the initial application and that he would let Hunzeker know if there was a problem. Then just before the first hearing Hunzeker received a letter in opposition from that neighborhood.

Secondly, it has been implied that the bank is threatening to take down trees and move the bank. That is not the case. It has never been said that there would be trees removed in order to see the signs. That was not said by anyone representing the bank. Furthermore, it is correct that we have said that there are trees that obstruct the view of the sign and there is some landscaping on this site that does obstruct the view. We have said we do not want to take those things out. That is why we are here. If it was a matter of getting out a chain saw, we would have done that a long time ago. It is not and never has been the bank's purpose to put this sign up solely to attract business. The sign is for identification of this building and this site, and for direction of people who want to get there. We are not thinking that this will change the number of customers that the bank has. It is identifying the site in a way that is compatible with the neighborhood. It will be a tasteful ground sign that will not infringe on anyone's residential area.

Steward commented that it is not comfortable for the Planning Commissioners to continue to vote against the recommendation of staff. He asked staff whether we have exhausted all of the possibilities for an individual solution to an individual situation without affecting the entire city. Mike DeKalb of Planning staff stated that for this particular size sign at this particular location, it requires a change of zone or a text amendment. He is not aware of another alternative at this time.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

December 12, 2001

Taylor moved to deny, seconded by Hunter.

Hunter wanted to make sure the record is correct. She does not believe there was a threat to remove trees. It was presented as the options that were available to them.

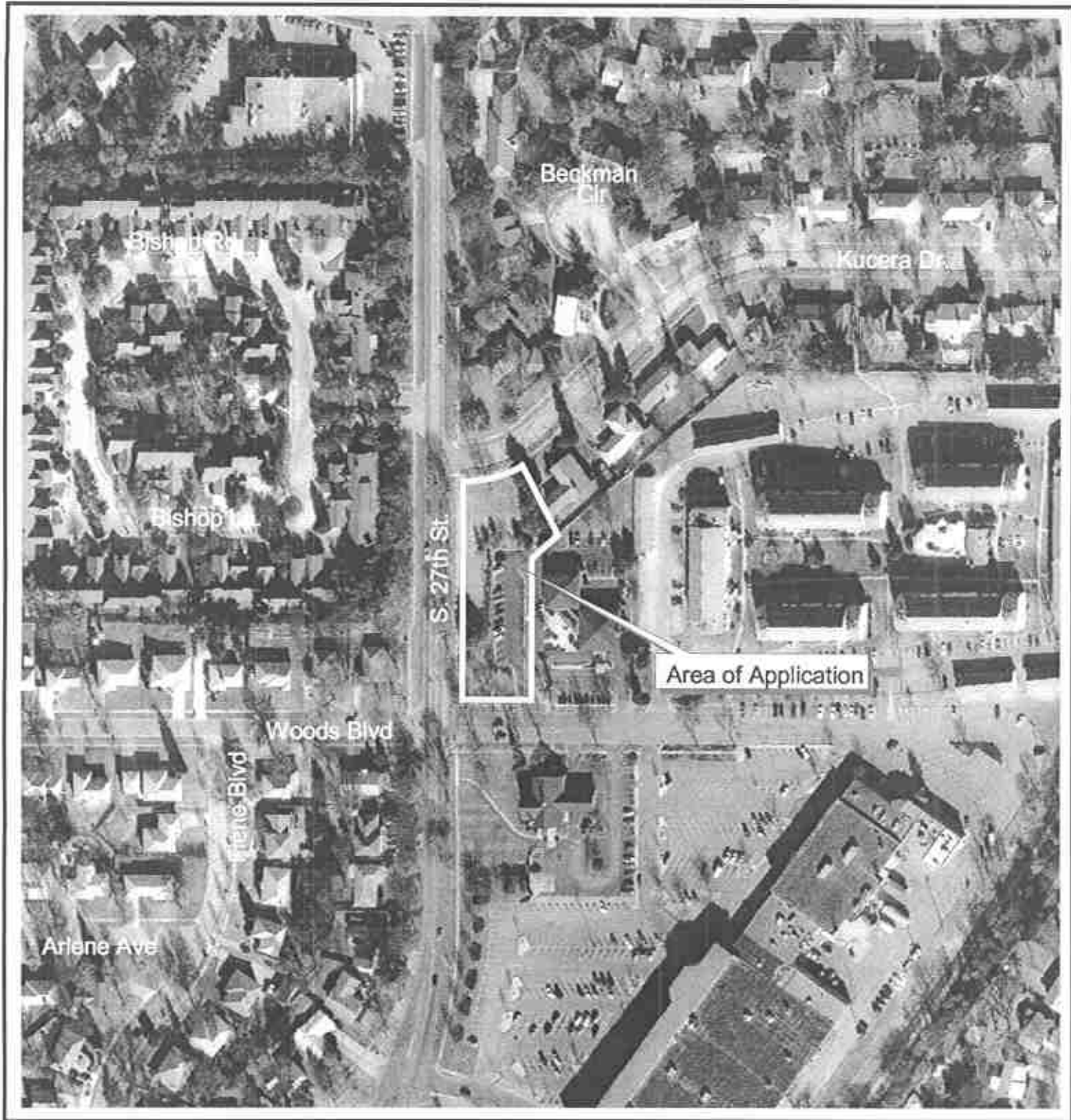
Steward indicated that he will make an unusual vote in favor of the special permit, knowing that the previous action does not permit this circumstance. However, he continues to believe that there has to be a way to do this without affecting new opportunities in different situations in different circumstances. In his opinion, this happens to be an individual situation which improves the business intent, the

aesthetic intent and the character of the environment and the neighborhood. That is what he thought the special permitting process was about. Either we haven't written the right language or we have a circumstance where our planning and zoning is so inflexible that we cannot respond to an individual circumstance. He will vote in favor on principle.

Taylor does not believe the sign is necessary.

Hunter asked Law whether it is appropriate for the Commission to vote for a permit where the Commission has voted to deny the text amendment that would allow it. Peo acknowledged that the conditions of approval on the special permit require approval of the change of zone. So technically, a person could vote in favor of the special permit. However, he believes it is inconsistent action and gives a mixed message as to how serious you were about the denial of the text amendment. When it goes to the City Council, the Law Department will draft a resolution that will impose the conditions of approval and that will be before the Council.

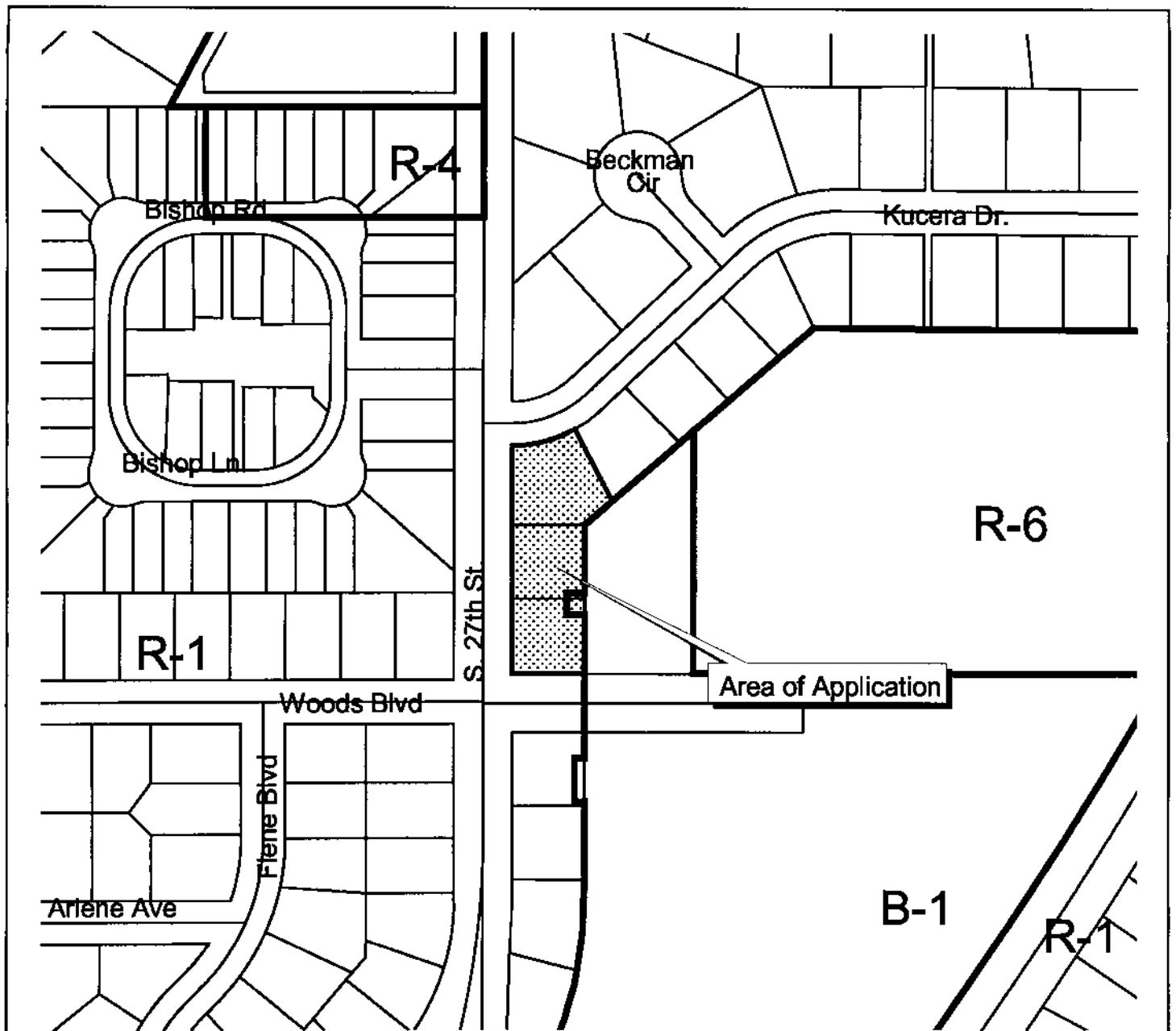
Motion to deny carried 5-3: Newman, Krieser, Taylor, Carlson and Hunter voting 'yes'; Steward, Duvall and Schwinn voting 'no'; Bills absent.



Special Permit #1237A
S. 27th & Woods Blvd.



009

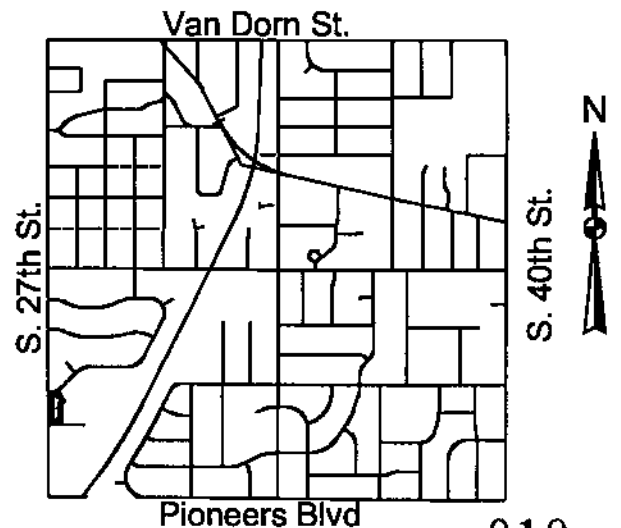
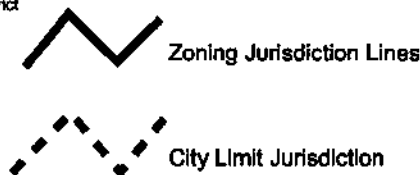


Special Permit #1237A S. 27th & Woods Blvd.

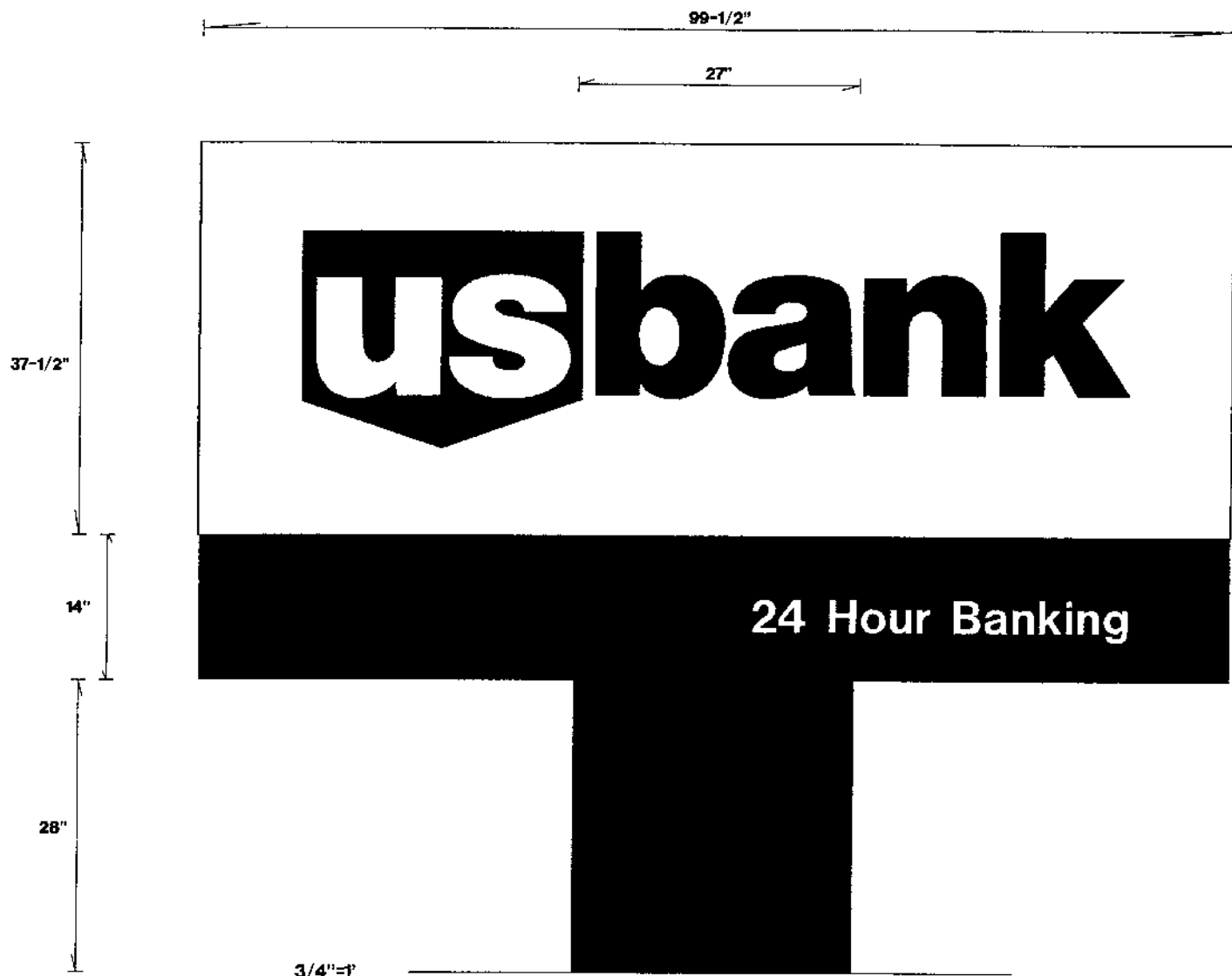
Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 6 T9N R7E



010



NEW - DOUBLE FACED - INTERIOR ILLUMINATED - GROUND SIGN

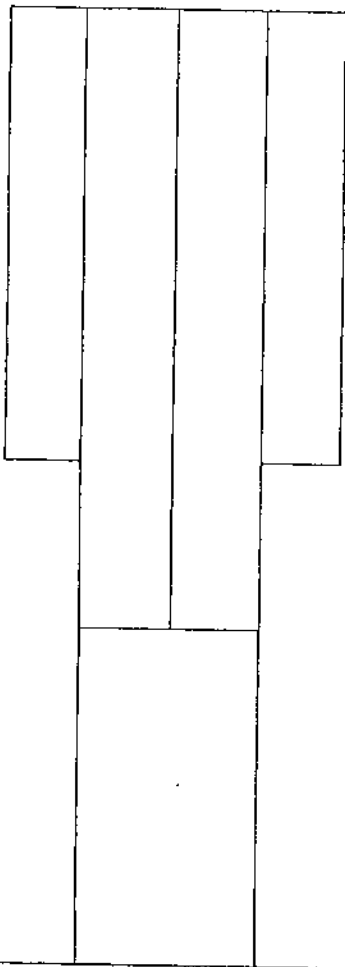
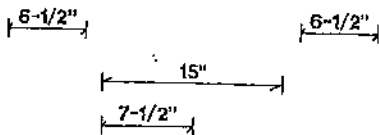
NOTE: COMPUTER GENERATED DRAWING IS INTENDED TO BE AN APPROXIMATE REPRESENTATION OF ACTUAL COLORS AND IMAGES

CLIENT	US BANK	SALESPERSON	THOMPSON	HARDCOPY	X
ADDRESS	BISHOP HEIGHTS	ARTIST	ENGLAND	SITE PLAN	
CITY	LINCOLN	SKETCH NO.	02616	PHOTO	
STATE	NEBRASKA	SCALE	NOTED	CLIENT APPROVAL	
		DATE	03/01/01	DATE	

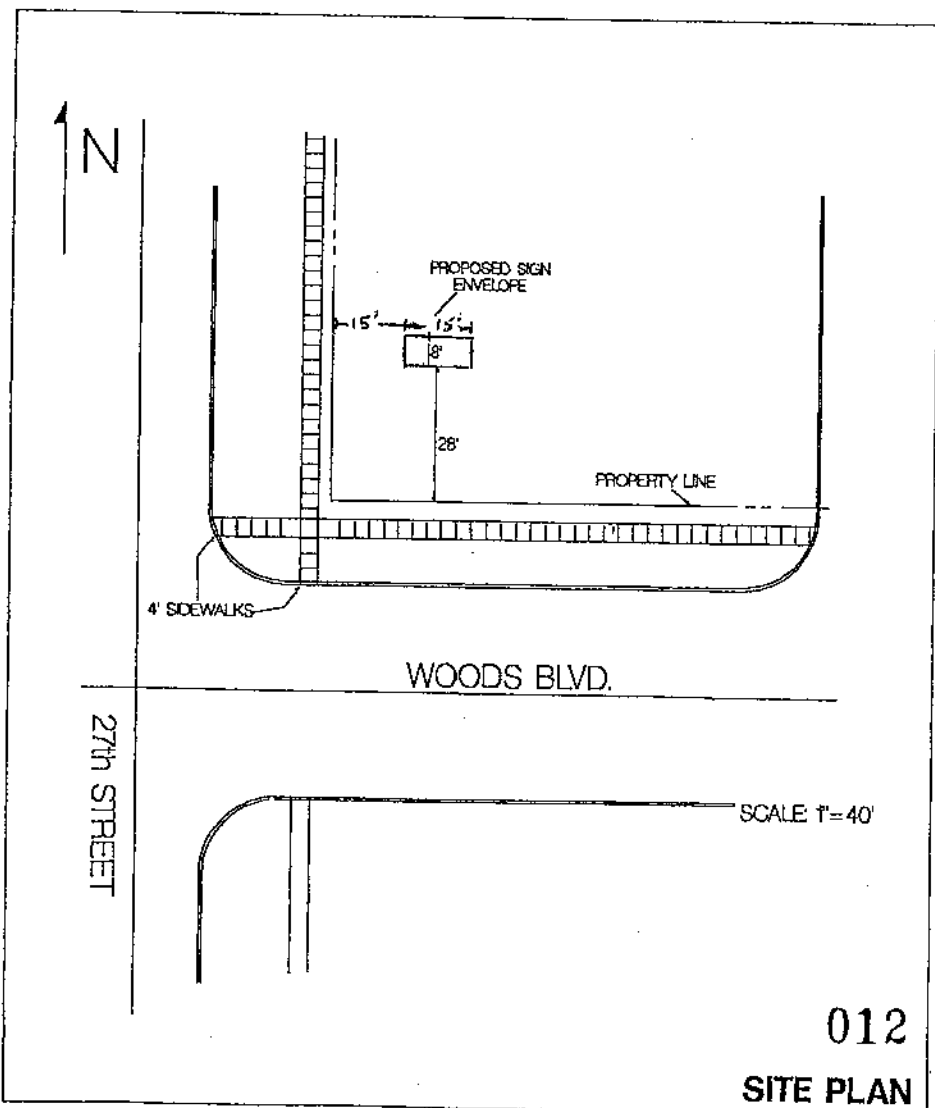
The proposed advertising display has been created from a survey and analysis by our qualified representatives and designers. It is an original drawing created by Nebraska Sign Company. All persons are advised that the design is the exclusive property of Nebraska Sign Company and that any use of the same without written permission is strictly forbidden.

COMPUTER FILE (US BANK BISHOP HTS) Lr

011



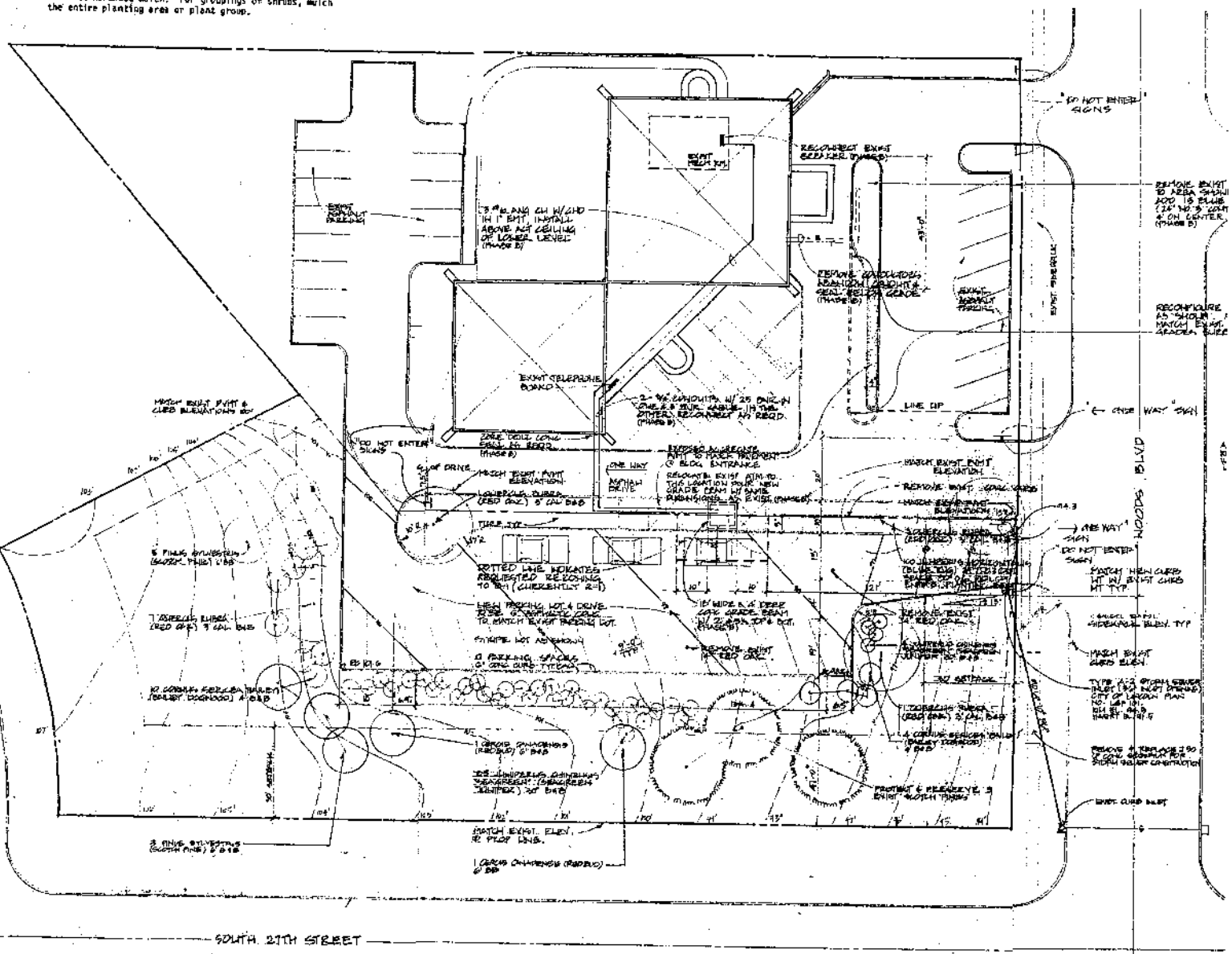
SIDE VIEW



012

SITE PLAN

NOTE: Distribute 6" min. of dark loam topsoil over all planting areas (including turf areas).
Sod all disturbed areas with bluegrass blend.
Mulch all newly installed plant material with 3" min. shredded hardwood mulch. For groupings of shrubs, mulch the entire planting area or plant group.



42

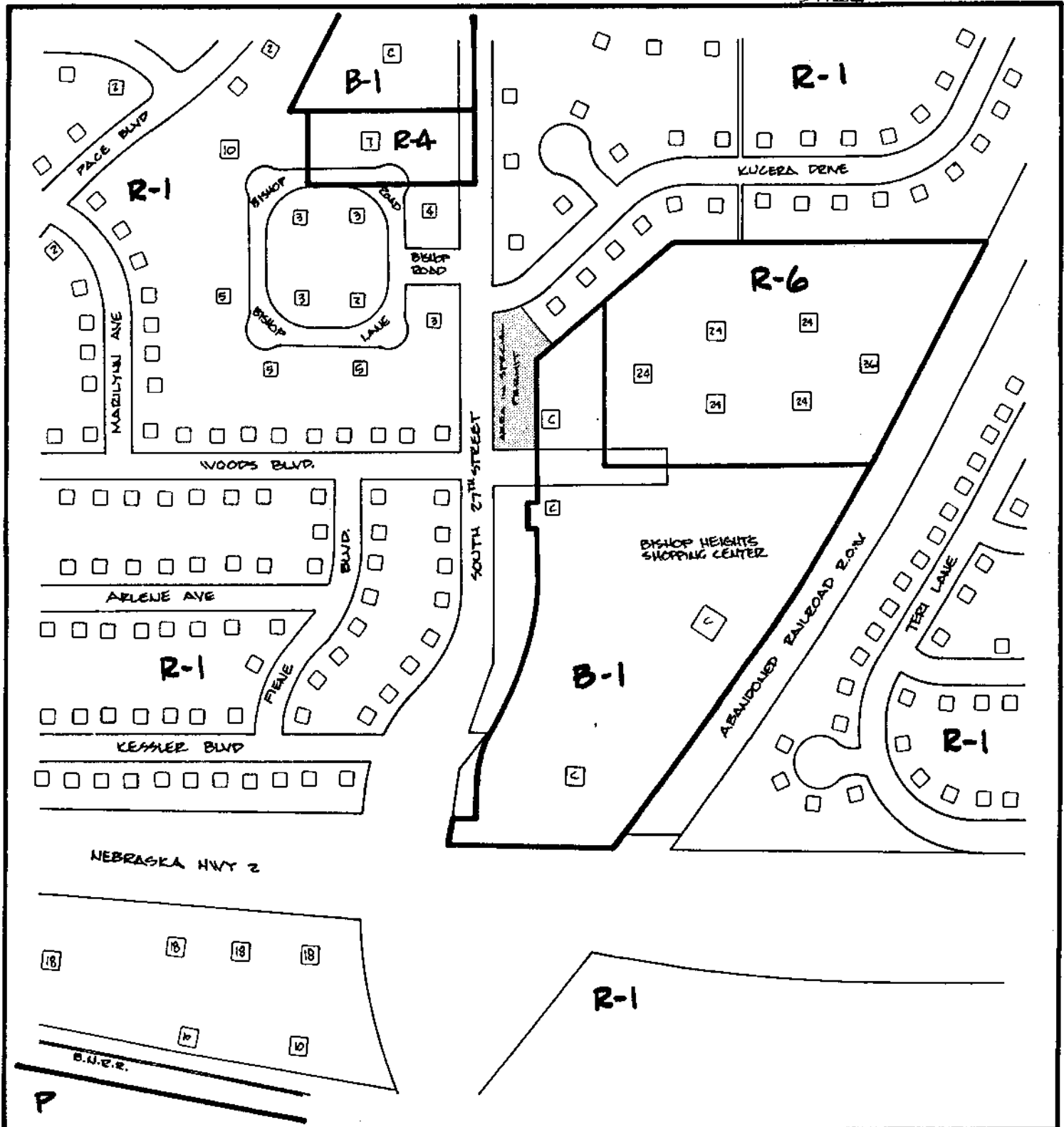
SITE PLAN
SCALE: 1" = 20'

Existing Special Permit
1237

SPECIAL PERMIT # 1237A PARKING LOT

DATE: 4/22/87

SHEET 1 OF 2



LAND USE

- ☐ SINGLE FAMILY
- ☐ DUPLEX
- ☐ MULTIPLE (APT.)
- ☐ COMMERCIAL

ZONING

- B-1 LOCAL BUSINESS DISTRICT
- R-1 RESIDENTIAL DISTRICT
- R-4 RESIDENTIAL DISTRICT
- R-6 RESIDENTIAL DISTRICT
- P PUBLIC USE DISTRICT



NORTH
SCALE: 1"=300'

To: Mike Dekalb, Planning Department
From: Mark Canney, Parks & Recreation *WAL*
Date: November 19, 2001
Re: U.S. Bank 1237 A

Staff members of the Lincoln Parks and Recreation Department have conducted a plan review of the above-referenced application/proposal and have no comments at this time.

If you have any additional questions, comments or concerns, please feel free to contact me at 441-8248.



Rodger P Harris

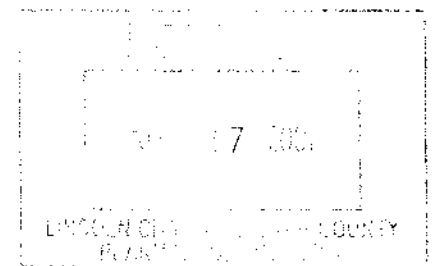
11/26/2001 04:32 PM

To: Michael V Dekalb/Notes@Notes
cc: Chuck A Zimmerman/Notes@Notes
Subject: SP 1237A, U.S. Bank, sign as part of SP.

We have no objection to the above proposed special permit for a sign, if the text change proposed by CZ 3347 is approved.

M e m o r a n d u m

To: Mike DeKalb, Planning Department
From: Charles W. Baker, Public Works and Utilities *BWB*
Subject: Special Permit # 1237, Ground Sign
Date: November 27, 2001
cc: Roger Figard
Nicole Fleck-Tooze

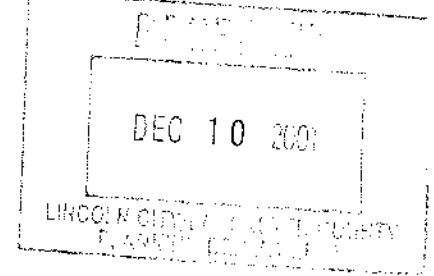


The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for the proposed ground sign for US Bank located at South 27th Street and Woods Boulevard. Public Works has no objections. The proposed sign is located outside of the required sight triangles for traffic safety.

IN OPPOSITION

ITEM NO. 3.2: CHANGE OF ZONE NO. 3347
3.3: SPECIAL PERMIT NO. 1237A

(p.73 and 77, Public Hearing - 12/12/01)



The Lincoln City / Lancaster County
Planning Commission
555 So. 10th Street
Lincoln, NE 68508

RE: Change of Zone Request #3347; and the Special Permit #1237(A) for US Bank

Dear Commissioners:

My husband and I are very much concerned about the request for the change of zone stated above and the special permit for a sign in the residential lot owned by US Bank on South 27th Street. We are opposed to any change in the R-1 zoned areas and particularly when the proposed change is for allowing a commercial sign in a residential area.

It is incumbent upon a commercial entity to peacefully co-exist within its neighborhood environment and with its residents, not the other way around. That co-existence means maintaining a facility, a façade, and an environs that are visually harmonious with the neighborhood. (I haven't seen any US Bank neighbors erecting large signs in their yards.)

US Bank, or its previous iterations, have been successfully conducting business in this location for many years, and can do so for many more without this proposed signage.

We hope the Planning Commission will demonstrate its wisdom with a vote in the negative for this change of zone and special permit request. Lincoln's neighborhoods need to be vigorously and thoughtfully protected and preserved. This change of zone, if approved, would negatively impact neighborhoods all over the city.

Thank you for your consideration and attention to this important matter.

Sincerely

Stacy C. James
3022 William Street
Lincoln, NE 68502

cc: Jonathan Cook, Jim Pattavina

IN OPPOSITION

ITEM NO. 3.2: CHANGE OF ZONE 334/
SPECIAL PERMIT 1237A
(p.73 and 77 - Public Hearing-
12/12/01)



12/5/2001

THE LINCOLN CITY/LANCASTER COUNTY
PLANNING COMMISSION
555 SOUTH 10TH STREET
LINCOLN NE 68508

Regarding: Change of Zone Request #3347; and the Special Permit #1237(A)
for US Bank

Dear Commissioners:

The County Club Neighborhood Association reviewed the request for the change of zone captioned above and the special permit for a sign in the residential lot owned by US Bank. The Board of Directors of CCNA directed me to voice our strong opposition to these two issues. Our association is clearly opposed to changes in the R-1 zoned areas when the proposed change would allow a commercial sign in residential areas. The 27th Street entry to our association area has consistently been a concern; the encroachment of signs on the 27th Street right of way detracts from the otherwise residential nature of the area. It is our hope that the planning commission will deny these requests.

We have received calls regarding this change from our membership and all of the calls from neighbors have clearly been negative. Callers have asked the board of directors to oppose both requests. Some of the callers are customers of US Bank and voiced their disappointment with the bank for proposing this special permit and the change of zone. It is our humble opinion that the bank may lose more business over this sign than they could ever hope to gain by this form of advertising. We wish our business neighbor, US Bank, great success, but respectfully ask them to reconsider their plans.

Sincerely

James Pattavina
for the Board of Directors

